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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,467	12/16/2003	David S. Allen	20823-00004	1466

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT PAPER NUMBER

3632

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,467

Applicant(s)

ALLEN, DAVID S.

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 121603.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for serial number 10/707,467, Adjustable Support Structure for Air Conditioner and the like, filed on December 16, 2003. Claims 1-19 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites the limitation " said locking bolt " in Line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7 and 9-11 are rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent 5,873,312 to Mauro-Vetter. Mauro-Vetter discloses an adjustable support

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structure comprising: a first, upper support assembly comprising an upper support plate (12) and at least one downwardly extending leg member (32) perpendicular to the support plate; a second, lower support assembly comprising a lower support plate (see Fig. 1 and 2) and at least one upwardly extending leg member (30) perpendicular to the lower support plate, the lower support plate configured to be positioned on a horizontal surface; a component (70) connected to the second, lower support assembly providing lateral support and enhanced aesthetics; wherein the upper support assembly is moveable between a plurality of vertical positions relative to the horizontal surface and is configured to support an object; wherein the downwardly and upwardly extending leg members (30, 32) are telescopically connected; wherein the downwardly extending leg member includes a plurality of vertically spaced adjustment holes (50); and wherein the upwardly extending leg member includes at least one locking hole (48).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mauro-Vetter in view of U.S. Patent 4,715,296 to Wilkinson. Regarding claims 6 and 12, Mauro-Vetter discloses the adjustable support structure as applied above, but does not teach a locking bolt received within the at least one locking hole and an adjustment

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hole. Wilkinson teaches an adjustable support structure (10) including a fastener comprising a locking bolt (46) and nut for insertion into an adjustment hole and locking hole. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the adjustable support structure of Mauro-Vetter by substituting the locking bolt and nut of Wilkinson for the fastener (60) because one would have been motivated to provide an alternative, equivalent means for fixing the telescoping legs in a desired position as taught by Wilkinson and further since locking pins and locking bolts and nuts are well known for their use in the fastening art and the selection of any of these known equivalents to releasably secure the telescoping leg members to each other would be within the level of ordinary skill in the art.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mauro-Vetter in view of U.S. Patent 6,698,364 to Welch et al. (Welch). Regarding claim 8, Mauro-Vetter discloses the adjustable support structure as applied to claims 1-5, 7 and 9-11 above, but does not teach the upper support assembly including a decorative component. Welch teaches an adjustable support structure (Fig. 1) including an upper support assembly having a decorative component (32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the upper support assembly of Mauro-Vetter to include a decorative component because one would have been motivated to provide lateral support to the upper support assembly as well as provide an aesthetic function as taught by Welch (col. 8, lines 48-50 and 61-64).

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Claims 13-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mauro-Vetter. Regarding claims 13-15 and 18, Mauro-Vetter discloses the adjustable support structure as applied to claims 1-5, 7 and 9-11 above, but does not teach the upwardly extending leg member (32) being telescopically received within the downwardly depending leg member (30). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the support structure of Mauro-Vetter such that the upwardly extending leg member is telescopically received within the downwardly depending leg member, since it has been held that the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mauro-Vetter in view of Wilkinson. Regarding claims 16 and 17, Mauro-Vetter discloses the adjustable support structure as applied to claims 13-15 and 18 above, but does not teach a locking bolt received within the at least one locking hole and an adjustment hole. Wilkinson teaches an adjustable support structure (10) including a fastener comprising a locking bolt (46) and nut for insertion into an adjustment hole and locking hole. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the adjustable support structure of Mauro-Vetter by substituting the locking bolt and nut of Wilkinson for the fastener (60) because one would have been motivated to provide an alternative, equivalent means for fixing

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the telescoping legs in a desired position as taught by Wilkinson and further since locking pins and locking bolts and nuts are well known for their use in the fastening art and the selection of any of these known equivalents to releasably secure the telescoping leg members to each other would be within the level of ordinary skill in the art.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mauro-Vetter in view of Welch. Regarding claim 19, Mauro-Vetter discloses the adjustable support structure as applied to claims 13-15 and 18 above, but does not teach the upper support assembly including a decorative component. Welch teaches an adjustable support structure (Fig. 1) including an upper support assembly having a decorative component (32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the upper support assembly of Mauro-Vetter to include a decorative component because one would have been motivated to provide lateral support to the upper support assembly as well as provide an aesthetic function as taught by Welch (col. 8, lines 48-50 and 61-64).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

3523702 to Unti et al; D252388 to Fjello-Jensen; 4723756 to Stumpf, Jr.;

5107775 to Langlais et al; 5207405 to Cobb; 5758586 to Keiser et al;


5845590 to Siedl; 6540191 to Liu; JP 5031286 to Hyakki

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The above references disclose support structures relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.


Naschica S. Morrison
Patent Examiner
Art Unit 3632
9/13/04


RAMON O. RAMIREZ
PRIMARY EXAMINER